



W.A.(MD) No.825 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.(MD) No.825 of 2024

and

C.M.P.(MD) No.6107 of 2024

The Joint Commissioner (ST),
Chennai (South) Division,
Chennai.

... Appellant/Petitioner

-Vs-

C.Vijayalakshmi

... Respondent/Writ Petitioner

Prayer: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 10.01.2023 made in W.P.(MD) No.4976 of 2020.

For Appellant : Mr.J.K.Jeyaseelan

JUDGMENT

[Judgment of the Court was delivered by ***R.Suresh Kumar, J.***]

This appeal has been directed against the order of the Writ Court dated 10.01.2023 in W.P.(MD) No.4976 of 2020.



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2. The respondent initially was appointed as Assistant Grade III in the Tamil Nadu Khadi Department, i.e. Khadi Board from 21.09.1995. Thereafter, since excess staffs had been deputed to various Departments, the respondent has been deputed to the appellant/Department, where she has been taken as Office Assistant and based on the service jointly rendered by the respondent both in the erstwhile Department as well as in the present appellant/Department, she had been conferred with the benefit of Selection Grade and Special Grade, pursuant to which monetary benefits had also been conferred on her.

3. However, after some time, the appellant/Board found that such a monetary benefit extended to the respondent was wrongly made. Therefore, in order to recover the same, orders have been passed, that is, recovery order on 19.12.2017. That order was put under challenge in the earlier round of litigation, where it was set aside on the ground of violation of principles of natural justice. Thereafter, the matter was remitted back, pursuant to which the present order dated 27.01.2020 has been passed for recovery, which was under challenge before the Writ Court.



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4. The learned Judge, who heard the writ petition, having taken note of the factual matrix, ultimately applied the principles laid down by the Hon'ble Supreme Court in the case of ***State of Punjab and others vs. Rafik Masih*** (White Washer's case) reported in ***(2015) 4 SCC 334***, where what are all the situations under which such recovery is not possible or unlawful or illegal as has been held by the Hon'ble Supreme Court had been pressed into service by the learned Judge and accordingly, the learned Judge allowed the writ petition through the impugned order.

5. Heard the learned counsel appearing for the appellant.

6. We are in complete agreement with the view taken by the learned Judge, as the learned Judge, having applied the principle laid down in ***White Washer's*** case, *cited supra*, has allowed the said writ petition. Therefore, it cannot be found fault with. The reason being that the respondent being Group-D servant against whom such recovery is impermissible, according to the law laid down by the Hon'ble Supreme Court in the said judgment *cited supra*.



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7. In view of the same, the reasoning given and the conclusion arrived at by the learned Judge is to be approved and accordingly, the order impugned is to be sustained. Resultantly, this appeal fails and it is dismissed. It is made clear that by applying the principles laid down in **White Washer's** case, only recovery can be prohibited. However, that will not confer any right automatically to any employee to seek for any undue benefit or advantage monetarily or otherwise, without satisfying the Service Rules in this regard. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J.] [G.A.M., J.]
04.06.2024

NCC : Yes / No
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and
G.ARUL MURUGAN, J.

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